

**THIS DECISION HAS BEEN APPEALED. THE  
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-04-4599.M5**

MDR Tracking Number: M5-04-0422-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 10-10-03

The IRO reviewed office visits, hot or cold packs, electrical stimulation, massage therapy, therapeutic exercises, myofascial release, joint mobilization, neuromuscular re-education and pulmonary studies rendered from 01-27-03 through 06-09-03 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity for office visits, hot or cold packs, electrical stimulation, massage therapy, therapeutic exercises, myofascial release, joint mobilization, neuromuscular re-education and pulmonary studies. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 12-15-03, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice. The Medical Review Division is unable to review this dispute for fee issues for dates of service 01-23-03 and 02-07-03 or 99080 on 02-28-03. Documentation was not submitted in accordance with Rule 133.307(g)(3) to confirm services were rendered. Therefore reimbursement is not recommended for these dates of service.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
02-03-03	99213	\$20.00	0.00	No EOB	\$48.00	MFG, E&M GR(IV)(C)(2)	Therapy and Progress notes support delivery of service. Recommended Reimbursement \$20.00
	97010	\$15.00	0.00		\$11.00	MFG MGR (I)(A)(9)(a)(ii)	Therapy and Progress notes do not support delivery of service. Reimbursement is not recommended.
	97032	\$25.00	0.00		\$22.00	MFG MGR (I)(A)(9)(a)(iii)	Therapy and Progress notes support delivery of service. Recommended Reimbursement \$22.00
	97124	\$35.00	0.00		\$28.00	MFG MGR (I)(A)(9)(b)	Therapy and Progress notes do not support delivery of service. Reimbursement is not recommended.
02-21-03	99211	\$20.00	0.00		\$18.00	MFG, E&M GR(IV)(C)(2)	Therapy and Progress notes support delivery of service. Recommended Reimbursement \$18.00
	97010	\$15.00	0.00		\$11.00	MFG MGR (I)(A)(9)(a)(ii)	Therapy and Progress notes do not support delivery of service. Reimbursement is not recommended
	97032	\$25.00	0.00		\$22.00	MFG MGR (I)(A)(9)(a)(iii)	Therapy and Progress notes support delivery of service. Recommended Reimbursement \$22.00
	97250	\$50.00	0.00		\$43.00	MFG MGR (I)(C)(3)	Therapy and Progress notes support delivery of service. Recommended Reimbursement \$43.00
	97265	\$50.00	0.00		\$43.00	MFG MGR (I)(C)(3)	Therapy and Progress notes support delivery of service. Recommended Reimbursement \$43.00
TOTAL		\$255.00					The requestor is entitled to reimbursement of \$168.00

This Decision is hereby issued this 9<sup>th</sup> day of March 2004.

Georgina Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

### ORDER.

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 01-27-03 through 06-09-03 in this dispute.

This Order is hereby issued this 9<sup>th</sup> day of March 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

December 16, 2003

**NOTICE OF INDEPENDENT REVIEW DECISION**  
**Corrected Letter**

**RE: MDR Tracking #: M5-04-0422-01**  
**TWCC #:**  
**Injured Employee:**  
**Requestor:**  
**Respondent:**  
**----- Case #:**

----- has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). ----- IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ----- for independent review in accordance with this Rule.

----- has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the ----- external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The ----- chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ----- for independent review. In addition, the ----- chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 31 year-old female who sustained a work related injury on ----- . The patient reported that while at work she injured her back when she bent over to pick up some paper from the ground. An MRI dated 9/26/01 showed a 3mm posterior left paracentral herniation at the L5-S1 level. On 1/2/02, the patient underwent a discogram that revealed mild asymmetry in the left posterolateral L5-S1 disc that may represent a prior disc protrusion. Initial treatment for this patient consisted of physical medicine and medications, work hardening and epidural steroid injections. The patient then underwent a spinal fusion at the L5-S1 levels on 11/22/02. Postoperatively the patient was treated with rehabilitation. The patient was then

referred to a chronic pain management program. The patient also was treated postoperatively with trigger point injections.

#### Requested Services

Subsequent visit, hot/cold pack therapy, stimulation, massage therapy, therapeutic exercises, myofascial release, joint mobilization, office/outpatient visit, neuromuscular reeducation, pulmonary studies from 1/27/03 through 6/9/03.

#### Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is upheld.

#### Rationale/Basis for Decision

The ----- chiropractor reviewer noted that this case concerns a 31 year-old female who sustained a work related injury to her back on ----- . The ----- chiropractor reviewer also noted that the patient underwent a spinal fusion at the L5-S1 level on 11/22/02. The ----- chiropractor reviewer further noted that postoperatively the patient was treated with trigger point injections, rehabilitation and referred to a pain management program. The ----- chiropractor reviewer explained that the documentation provided failed to show significant progress in the patient's condition with the treatment rendered. Therefore, the ----- chiropractor consultant concluded that the subsequent visit, hot/cold pack therapy, stimulation, massage therapy, therapeutic exercises, myofascial release, joint mobilization, office/outpatient visit, neuromuscular reeducation, pulmonary studies from 1/27/03 through 6/9/03 were not medically necessary to treat this patient's condition.

Sincerely,

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